IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 23401 of 2006

DATED: 10.11.2006

Between:
Md. Husamuddin
petitioner

And

The Divisional Engineer,
Electrical Operation, Nizamabad & ano Respnodents

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THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P. No. 23401 of 2006

ORDER:

Assailing the proceedings dated 12.8.2004 issued by respondent No.1 placing the petitioner under suspension, the present writ petition is filed.

Petitioner who is an Assistant Lineman in the respondent company, was suspended by the 1st respondent by proceedings dated 12.8.2004 on the ground that he was arrested in Crime No.171 of 2004 registered under section 498-A and 506 of Indian Penal Code.

Learned counsel for the petitioner submitted that though two years had elapsed from the date the petitioner has been placed under suspension, no action had been taken by respondent No.1 to revoke the suspension. He submits that the action of respondent No.1 in continuing him under suspension without assigning any reasons, is illegal and arbitrary, and in support of his submission that continuing him under suspension indefinitely without considering the public interest and the impact the case has on the employee, is illegal, he placed reliance on a judgment of a Division Bench of this Court in ***P.Rajender Vs. Union of India***[1].

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

In the present case, the petitioner was suspended on 12.8.2004 on the ground of his involvement in a criminal case in Crime NO. 171 of 2004 registered under Section 498-A of I.P.C. Admittedly, in terms of Government Memo No.1/0169/Ser.C/2003, GAD dated 11-9-2003 which was adopted by the respondent corporation, the authorities has to review the suspension at intervals of six months and after lapse of

two years, the public servant can be reinstated without prejudice to the departmental proceedings. No doubt, the petitioner has been placed under suspension in public interest, but apart from public interest, the authority is required to take into consideration relevant facts and attendant circumstances and to what extent the public interest is protected if the employee is under suspension.

In **P. Rajender v. Union of India**, a Division Bench of this Court considered similar issue, as is appearing in the present case, and held thus:

> *Suspension pending investigation, inquiry or trial is interim in nature. The aforementioned rule clearly suggests that an order of suspension is not required to be passed only because it will be lawful to do so. An application of mind on the part of the competent authority is sine qua non for passing such order of suspension. Before passing of an order of suspension, therefore, it is expected that the appropriate authority shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest may suffer if the delinquent officer is not placed under suspension.*

From the above it is clear that the appropriate authority before passing order of suspension shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest suffer if the delinquent officer is not placed under suspension.

In view of the above, I deem it appropriate to dispose of the writ petition with the following direction.

Respondent No.1 is directed to review the case of the petitioner for revocation of suspension, in the light of the observations of the judgment of the Division of this Court in **P. Rajender v. Union of India**

and pass appropriate orders expeditiously, preferably within a period of six weeks from the date of receipt of copy of this order.

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(N.V. RAMANA, J.)

Date : 10.11.2006

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Note: Issue copy in one week.

B/o

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THE HON'BLE MR JUSTICE N.V. RAMANA

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[1] 2001 (5) ALD 290 (DB)